

# Senate Study Bill 3138 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
APPROPRIATIONS BILL BY  
CHAIRPERSON DVORSKY)

## A BILL FOR

1 An Act relating to providing food to persons in need, including  
2 the donation of food to be distributed by food banks and  
3 emergency feeding organizations, the establishment of prison  
4 gardens, and the exemption from the state sales and use tax  
5 of the purchase price of tangible personal property sold  
6 and services furnished to food banks, and providing for  
7 appropriations.  
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

FOOD DONATION ON STATE CAPITOL PREMISES

Section 1. NEW SECTION. **2.43A Food served on state capitol premises.**

The secretary of the senate and the chief clerk of the house of representatives shall require any person who is approved to sponsor an event within or on the grounds of the state capitol during which the person offers food to all members of the general assembly during a legislative session to offer to donate any unconsumed food to a food bank or an emergency feeding organization as defined in section 190B.201. The legislative council may also require any person who is approved by the legislative council to sponsor an event within or on the grounds of the state capitol during which the person provides food to offer to donate any unconsumed food to a food bank or emergency feeding organization as defined in section 190B.201.

DIVISION II

FOOD DONATION PROGRAMS ADMINISTERED BY DEPARTMENT OF HUMAN SERVICES

Sec. 2. Section 190B.101, Code 2016, is amended to read as follows:

**190B.101 Definitions.**

As used in [this chapter subchapter](#), unless the context otherwise requires:

1. "*Department*" means the department of revenue.
2. "*Tax credit*" means the from farm to food donation tax credit as established in [this chapter subchapter](#).

Sec. 3. NEW SECTION. **190B.201 Definitions.**

As used in this subchapter, unless the context otherwise requires:

1. "*Department*" means the department of human services.
2. "*Eligible agricultural product*" or "*product*" means any commodity that is derived from an agricultural animal or crop, both as defined in section 717A.1, which is intended for human consumption as food in its raw or processed state.

1     3. *"Emergency feeding organization"* means an emergency  
2 feeding organization as defined in section 7 U.S.C. §7501 that  
3 operates at a congregate nutritional site.

4     4. *"Food"* means a substance which is used in whole or in  
5 part for human consumption in compliance with federal and state  
6 standards or requirements, including a donated food that meets  
7 the requirements of the federal emergency food assistance  
8 program, as provided in 7 C.F.R. pts. 250 and 251.

9     5. *"Food bank"* means a private nonprofit entity that meets  
10 all of the following requirements:

11     a. The food bank is organized under chapter 504.

12     b. The food bank qualifies under section 501(c)(3) of the  
13 Internal Revenue Code as an organization exempt from federal  
14 income tax under section 501(a) of the Internal Revenue Code.

15     c. The food bank maintains an established operation  
16 involving the provision of food or edible commodities or the  
17 products thereof on a regular basis to persons in need or to  
18 food pantries, soup kitchens, hunger relief centers, or other  
19 food or feeding centers that, as an integral part of their  
20 normal activities, provide meals or food on a regular basis to  
21 persons in need.

22     6. *"Iowa food bank association"* or *"association"* means  
23 a private nonprofit entity that meets all of the following  
24 requirements:

25     a. The association is organized under chapter 504.

26     b. The association qualifies under section 501(c)(3) of the  
27 Internal Revenue Code as an organization exempt from federal  
28 income tax under section 501(a) of the Internal Revenue Code.

29     c. The association's members include food banks, or  
30 affiliations of food banks, that together serve all counties  
31 in this state.

32     d. The association's principal office is located in this  
33 state.

34     Sec. 4. NEW SECTION. 190B.202 Administration — use of  
35 moneys and oversight.

1     1. This subchapter shall be administered by the department  
2 of human services. In adopting rules and administering the  
3 Iowa agricultural products clearance program established under  
4 section 190B.204, the department shall cooperate with the  
5 department of agriculture and land stewardship.

6     2. A program established in this subchapter shall be managed  
7 by an Iowa food bank association selected by the department.  
8 The association shall report to the department as required by  
9 the department.

10    3. A program established in this subchapter shall be carried  
11 out only to the extent that moneys are available to support  
12 the program, including moneys to support the association's  
13 management functions, including but not limited to necessary  
14 departmental staff support. The department may support a  
15 program from moneys appropriated by the general assembly  
16 for the program's purpose and any other moneys available to  
17 and obtained or accepted by the department from the federal  
18 government or private sources.

19    Sec. 5. NEW SECTION. 190B.203 Management of programs —  
20 Iowa food bank association.

21    1. The department shall enter into a contract with an Iowa  
22 food bank association to manage programs established under this  
23 subchapter.

24    2. In managing a program, the association shall do all of  
25 the following:

26     a. Acquire eligible agricultural products, including by  
27 purchase.

28     b. Arrange for the processing and packaging of eligible  
29 agricultural products into food, when such processing is  
30 necessary to comply with federal and state food safety  
31 regulations.

32     c. Provide for the storage and transportation of eligible  
33 agricultural products.

34     d. Provide for the distribution of eligible agricultural  
35 products.

1     3. In managing a program, the association shall to every  
2 extent feasible create and expand significant economic benefits  
3 in local communities. The association shall purchase products  
4 and services from individuals and businesses located in this  
5 state whenever the price is reasonably competitive and the  
6 quality as intended.

7     Sec. 6. NEW SECTION. **190B.204 Iowa agricultural products**  
8 **clearance program — establishment and purpose.**

9     1. The department shall establish an Iowa agricultural  
10 products clearance program to be managed by an Iowa food bank  
11 association selected by the department as provided in section  
12 190B.203.

13     2. The purpose of the program is to acquire surplus  
14 eligible agricultural products from agricultural producers and  
15 other persons in order to prevent unnecessary waste, reduce  
16 economic losses associated with paying for the processing  
17 and transportation of such products that otherwise do not  
18 have profitable markets, and to provide nutritional food to  
19 low-income families and individuals who reside in this state  
20 and to unemployed families and individuals who reside in this  
21 state.

22     3. The Iowa food bank association managing the program  
23 shall only distribute eligible agricultural products under the  
24 program to Iowa food banks in this state and emergency feeding  
25 organizations in this state.

26     Sec. 7. NEW SECTION. **190B.205 Iowa emergency food purchase**  
27 **program — establishment and purpose.**

28     1. The department shall establish an Iowa emergency food  
29 purchase program to be managed by an Iowa food bank association  
30 selected by the department as provided in section 190B.203.

31     2. The purpose of the program is to relieve situations of  
32 emergency experienced by families or individuals who reside in  
33 this state, including low-income families and individuals and  
34 unemployed families and individuals, by distributing food to  
35 those persons.

1     3. The Iowa food bank association managing the program shall  
2 only distribute food under the program to emergency feeding  
3 organizations in this state.

4     Sec. 8. NEW SECTION.   **904.302A Gardening program.**

5     The director shall establish a gardening program for growing  
6 and harvesting produce, including edible vegetables, at each  
7 correctional facility operated by the department, to the  
8 extent that the director determines that security and space  
9 requirements allow for the garden's creation and operation.  
10 The director may appoint the farm operations administrator to  
11 oversee the program. A garden established pursuant to the  
12 program shall be tended by inmates of the correctional facility  
13 as determined by the director. The produce harvested from  
14 the garden may be used to feed the correctional facility's  
15 population or may be donated to a food bank as defined  
16 in section 190B.201 designated by the director. The food  
17 bank must be located in this state and in proximity to the  
18 correctional facility where the garden is situated. Any excess  
19 produce that is not used to feed the correctional facility's  
20 inmate population shall be donated to the designated food bank.

21     Sec. 9. APPROPRIATIONS. There is appropriated from the  
22 general fund of the state to the department of human services  
23 for the fiscal year beginning July 1, 2016, and ending June  
24 30, 2017, the following amounts, or so much thereof as is  
25 necessary, to be used for the purposes designated:

26     1. For purposes of supporting the Iowa agricultural  
27 products clearance program provided in chapter 190B, subchapter  
28 II, as enacted in this Act:

29 ..... \$       650,000

30     a. Of the amount appropriated in this subsection, up to  
31 \$500,000 shall be allocated for purposes of purchasing eligible  
32 agricultural products for use as food, processing eligible  
33 agricultural products into food, and packaging such processed  
34 eligible agricultural products.

35     b. Of the amount appropriated in this subsection, up to

1 \$100,000 shall be allocated for purposes of providing for the  
2 storage and transportation of eligible agricultural products.

3 c. Of the amount appropriated in this subsection, up  
4 to \$50,000 shall be allocated for purposes of paying for  
5 administrative functions performed by an Iowa food bank  
6 association selected by the department to manage the program,  
7 including salaries, support, maintenance, and miscellaneous  
8 purposes.

9 2. For purposes of supporting the Iowa emergency food  
10 purchase program provided in chapter 190B, subchapter II, as  
11 enacted in this Act:

12 ..... \$ 250,000

13 DIVISION III

14 SALES TAX EXEMPTION FOR FOOD BANKS

15 Sec. 10. Section 423.3, Code 2016, is amended by adding the  
16 following new subsection:

17 NEW SUBSECTION. 103. The sales price from the sale or  
18 rental of tangible personal property, or services furnished,  
19 to a food bank as defined in section 190B.201, which tangible  
20 personal property or services are to be used by the food bank  
21 for a charitable purpose.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with  
24 the explanation's substance by the members of the general assembly.

25 GENERAL. This bill provides for the distribution of raw  
26 and processed food to two types of nonprofit organizations:  
27 food banks and emergency feeding organizations, both of which  
28 are involved in distributing food to low-income families  
29 and individuals and unemployed families and individuals in  
30 this state. The bill provides for the donation of food by  
31 sponsors of legislative events conducted on the premises of  
32 the state capitol; the establishment of three distribution  
33 programs, two within the department of human services and  
34 including appropriations, and one within the Iowa department of  
35 corrections; and a sales and use tax exemption.

1     FOOD SERVED ON STATE CAPITOL PREMISES. The bill relates to  
2 legislative-sponsored events at which food is offered within  
3 or on the grounds of the state capitol. During a legislative  
4 session, a sponsor conducting an event to which all legislative  
5 members are invited must offer to donate unconsumed food to a  
6 nonprofit organization under the direction of the secretary  
7 of the senate or chief clerk of the house of representatives.  
8 The legislative council may also require that a legislative  
9 council-approved sponsor of an event located on the same  
10 premises offer to donate unconsumed food to a nonprofit  
11 organization.

12     PROGRAMS AND APPROPRIATIONS. An Iowa food bank association  
13 which is an organization with its principal place of business  
14 located in this state and comprised of food bank members, is  
15 to manage two programs under a contract entered into with  
16 the department of human services, which must oversee the  
17 programs. The programs allow the association to purchase  
18 or otherwise acquire: eligible agricultural products which  
19 include both (1) food and (2) agricultural commodities that  
20 can be processed into food. The program also provides for the  
21 packaging, storing, and transporting of eligible agricultural  
22 products to nonprofit organizations for distribution. The  
23 Iowa agricultural products clearance program is established to  
24 distribute eligible agricultural products to both food banks  
25 and emergency feeding organizations. The Iowa emergency food  
26 purchase program is established to distribute food only to  
27 Iowa emergency feeding organizations. The bill appropriates  
28 moneys from the general fund to the department to support  
29 administration of the two programs and the contract.

30     A prison gardening program is to be established by the  
31 director of the Iowa department of corrections. Under this  
32 program, the director is to establish gardens subject to  
33 security and space requirements at each correctional facility.  
34 Any garden produce must be either consumed within the prison or  
35 donated to a nonprofit corporation.



S.F. \_\_\_\_\_

1     SALES TAX EXEMPTION. The bill exempts from the sales tax  
2 the purchase price from the sale or rental of tangible personal  
3 property, or services furnished, to a food bank if the property  
4 or services are to be used by the food bank for a charitable  
5 purpose. By operation of Code section 423.6, an item exempt  
6 from the imposition of the sales tax is also exempt from the  
7 use tax imposed in Code section 423.5.